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BEYOND THE BALLOT: THE CONSTITUTION'S LAST DEFENDERS IN THE FACE OF AUTHORITARIANISM

The current moment, marked as it is by youth protests led by the Cockroach Janata Party, NSUI and other youth groups are an important effort at challenging the hubris of the Union Government. The youth are making their frustration clear both with regard to the shocking disregard of their concerns by the BJP as well as the complete failure of the legacy media to be anything other than a mouthpiece of the Union Government. The protests which have entered the fourth day are a significant challenge to the narrative of the Union Government that the only faultline in Indian politics which matters is the Hindu- Muslim divide. Instead the youth are saying that the issues which matter relate to their future including the ability to conduct examinations fairly and transparently and the generation of employment. This eruption of youth protests has caught the BJP by surprise, occupied as it was by its unconstitutional efforts at converting India into a country without an opposition. These protests have gained support from farmers groups and need to be supported by all constitutionally minded people as they challenge the narrative of the Modi government, that we are living in amrit kaal.

Ever since the BJP suffered a shock in 2024 through a reduction of its parliamentary strength, it has intensified its efforts to ensure that 2024 will be an aberration in its path to unchallenged electoral dominance. In particular the institutional capture of the Election Commission of India has been instrumental. The very decision of the ECI to do a Special Intensive Review of the electoral rolls and in the process disenfranchise millions of Indian citizens from minority, Adivasi and Dalit backgrounds speaks to the attempt at altering the nature of political democracy in India. The delimitation of electoral constituencies in Assam and the continuing efforts at introducing delimitation nationwide is another such effort at institutionalizing the electoral dominance of the BJP.

The efforts by the BJP to provoke splits in opposition parties is another unconstitutional means to ensure BJP's parliamentary dominance. The efforts at changing the character of India's electoral democracy come on the back of an effort to shut out all other forms of opposition. The relentless targeting of all protests as 'anti-national', the arrest of those who dissent, the capture of the media and the ongoing institutional capture of all wings of the state including the judiciary speak to the heavy handed authoritarianism of the state.

The context of this attempt to silence all forms of opposition is the spectacular failure of the government across all fields. In foreign policy, the government which liked to characterize itself as a Vishwaguru finds itself on the sidelines of every major international conflict, while Pakistan ends up being the mediator. When the Prime Minister liked to boast of his close ties to Donald Trump, Trump himself showed no compunctions in repeatedly insulting and humiliating India and Indians. Right from the unfair tariffs against India to the murder of Indian sailors to the handcuffed deportation of Indian migrants – the US has perfected a politics of cruelty working completely outside the framework of international law. The response of the Prime Minister to the spectacle of repeated humiliations from Donald Trump has been an embarrassing silence not worthy of the leader of a country which likes to call itself the world's largest democracy.

When it comes to the economy, the failures are manifold. The call for austerity by the Prime Minister including the calls to cut fuel use and avoid travel indicate the seriousness of the crisis. These measures are being proposed amid the rapid downward slide in the value of Indian rupee against US dollar. The stresses and strains in the economy have not been accompanied by any measures to fortify the most vulnerable from economic shocks. On the contrary the government has gone out of its way to further strip the poorest of their economic entitlements. With the repeal of the MGNREGA and the enactment of the VB G RAM G Act, the cushion which India had provided in the form of employment as a right has been repealed, leaving the poor even more vulnerable during harsh economic times.

Cutting across ideology, what is increasingly apparent is the total incompetence of the government. This incompetence which has put the future of millions of young Indians at stake is today being exposed by the young themselves. Under this government, examination leaks in the NEET exam as well as serious discrepancies in the online evaluation of answer scripts by the CBSE have put the education system under scrutiny.

Typifying the seriousness with which these scams are being exposed is the work of seventeen year old 12th standard student Sarthak Sidhant from Ranchi. Sarthak was one of the 17 lakh students that have been affected by the On Screen Marking system released by the Central Board of Secondary Education. He used his research skills to make out a case that the CBSE failure to run the examination system competently was a result of a decision to favour a company Coempt Eduteck which had a past history of using software which failed massively. In Sarthak's analysis, the CBSE Request for Proposals (RFP) were so structured as to favour one company by diluting tender requirements. As Sarthak put it, 'This is a story of how a massive public institution deliberately played with students' futures by rewriting its own rulebook.'

To give just one example of what Sarthak unearthed, the board in a previous RFP had explicitly stated that a service provider would be instantly disqualified if a confidential inquiry or past record revealed an history of "abandoning work," "not properly completing contractual obligations," or "financial failures/weaknesses in any institution." However in the new RFP, 'these clauses were completely wiped out', directly benefiting Coempt Eduteck which in its previous corporate avatar as Globarena Technologies was responsible for the Telangana Intermediate exam fiasco which resulted in the failing of over 3.8 lakh students due to missing marks and other systemic discrepancies leading to the suicide of 23 students. As Sarthak put it, 'For the board, a track record of poor performance didn't matter anymore; as if 'they had kept this clause, Coempt's catastrophic operational history under the name Globarena in Telangana would have been a massive legal hurdle for their qualification.'

The emergence of the Cockroach Janata Party speaks to the levels of youth anger against the failures of the current government. The party which was born out of satire, and rapidly became an online sensation has made a transition into an offline presence organising protests in Delhi, Bangalore, Pune, Lucknow and other cities demanding the resignation of the Education Minister, Dharmendra Pradhan for ruining the future of tens of thousands of students of this country. As of 23 June 2026 the CJP marked the fourth day of continuous protests in Delhi demanding the resignation of the Education Minister, Dharmendra

Pradhan. The protestors have strongly articulated that the 'Hindu-Muslim' issue is a bogey used to distract from the many failures of the government with respect to the youth. They have also strongly criticised the legacy media which they see as a tool to amplify the propaganda of the government while ignoring the concerns of the youth.

The resonance the CJP has had speaks to a high level of youth dissatisfaction and anger against the ruling party. At a moment when the levers of institutional control are even stronger with the union government, the continued protests on the streets by not only youth but also labourers, farmers, adivasis and civil society speaks to a wellspring of dissatisfaction vis a vis the performance of the Union Government by many sections of society. There is a disconnect between the mood on the streets and the election results. No matter how many elections the BJP wins, (using fair means and foul) the protests continue.

What is common to the range of protests which confront an unethical government drunk on its own power is its rooting in the Constitution. The protestors are reminding the government that however mighty it might think itself to be, it is still governed by the Constitution and the Constitution guarantees all citizens the right to peacefully express their opinion.

The expression of a free opinion through public assemblies is increasingly important in an authoritarian country in which the Union Government is using all means to prevent the expression of such opinion right from police intimidation, arrests and FIRs. It is a tribute to the protesters that they fearlessly express their opinion in spite of knowing that the act of protest could even invite a future of long incarceration under draconian laws such as the UAPA. It is a painful reality that after almost six years, peaceful anti-CAA protesters are still in jail including Sharjeel Imam and Umar Khalid.

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In this climate which is hostile to protests, the current round of protests have loosened the grip of fear. One instance is the opinion expressed by CJP founder Abhijeet Dipke who spoke in the rally at Jantar Mantar of how his mother cried more on his return than when he had left for the US, as she feared his arrest on coming back to India. As he poignantly put it 'This is not just the fear of my mother, this is the fear of the parents of any youngster who speaks on politics.... How long will we live in fear? Tell them, we are not scared.'

Abhijeet's invocation of the importance of fearlessness reminds us of another era altogether. Jawaharlal Nehru noted that the time India spent under British colonial rule was a time of fear-'pervasive, oppressing, strangling fear; fear of the army, the police, the widespread secret service; fear of the official class; fear of laws meant to suppress and of prison.' As Nehru puts it, it was Gandhi who challenged 'this all pervading fear', with his 'quiet and determined voice'. Slowly, the efforts of Gandhi bore fruit and 'that black pall of fear was lifted from the people's shoulders, not wholly of course, but to an amazing degree'.

The contemporary period of an 'undeclared emergency' much like the colonial period and the period of emergency is shrouded by the black pall of fear. It is in this dark time that one has to challenge an increasingly unaccountable government by fearlessly asserting the right to speech and assembly. We hope that in the time going forward, all those who care about the Constitution of India can take forward the vision encoded in the Preamble of a society based on justice with liberty, equality, fraternity and dignity.

PUCL CONDEMNS SUPREME COURT'S SIR VERDICT: LEGITIMISING MASS DISENFRANCHISEMENT

PUCL NATIONAL

The PUCL condemns the 27th May, 2026 decision of the Supreme Court in 'Association of Democratic Rights v. Election Commission of India' as a singular blow to the principle of political equality in India. In one of its most consequential decisions, the Court legitimized the mass disenfranchisement exercise conducted by the Election Commission of India which disproportionately affected minorities, migrants, the poor and women and was contrary to existing law and procedure. This mass disenfranchisement exercise went under the nomenclature of 'Special Intensive Review' (SIR).

While the Court goes through legal pyrotechnics to uphold the SIR, none of its legal justifications can hide the fact that at the end of the SIR exercise, the electorate of Bihar has effectively shrunk by more than 68 lakh voters. 65 lakh voters were deleted when the draft rolls were published. When the final rolls were published, another 3.66 lakh voters were deleted and 21.53 lakh voters were added. However, due to lack of transparency in the data published by ECI, it is impossible to know if the 21.53 lakh additions were of the same voters whose names were deleted. It has been widely reported that most of the deletions that took place were of voters from low-income, migrant working population as well as women.

The analysis placed by eminent social scientist Yogendra Yadav before the Court notes that 'there are three criteria for assessing the quality of electoral rolls: completeness, accuracy and equity.' For completeness, 'the globally accepted measure is the Electoral to Adult Population ratio or the EP ratio, which is best measured by comparing the number of electors with the number of persons in the voting age population.' Yadav demonstrated that 'before the impugned SIR exercise, Bihar's EP Ratio was at 97%, which is slightly below the national average.' After the SIR exercise, 'the ratio has been brought down to 88%, which is a sharp fall of nine percentage points.'

Yogendra Yadav further buttresses this argument by reference to the census data. As per the census data, 8.18 crore adults are presumptively eligible to vote. Before the SIR, the number of voters was 7.89 crore voters. The aim of the SIR should have been to ensure that all those eligible to vote are included in the rolls which means that the effort should have been to increase the number of voters to include as many of the 8.18 crore eligible voters as possible. However, instead of inclusion of eligible voters, what resulted through the SIR is the exclusion of eligible voters. As Yadav submitted before the Court, 'Such a scale of exclusion is unprecedented in the history of any electoral roll revision in India and directly violates the SIR's own mandate, which is constitutionally supposed to be an inclusive process.'

The Court failed to recognise that the SIR, by design, excludes the working poor, women and other marginalised communities. This is because the proof of eligibility in the SIR was restricted to a set of 11 documents, most of which are less likely to be found in the homes of marginalised communities. As the submissions before the Court indicated, the poorest people are often the ones with the least documents. The fact that the Court gave the green signal to the ECI's exclusion of documents to access the ability to vote such as ration card and EPIC (which was previously accepted by the ECI) indicts the Court's failure to call out the class bias of the ECI's decision on the question of what are the valid documents that presumptive voters can submit. This difficulty is compounded by the fact that those born after 2003, were asked to produce identity documents of both their parents. The Court ignored the sociological reality that India is a document poor society and came to the wrong conclusion that these documents are "ordinarily available to electors".

Effect of the SC ruling: Approval for mass disenfranchisement

What the Supreme Court judgment does is to give the seal of legal approval to mass disenfranchisement. The SIR lays waste to the work of the Election Commission ever since

independence when the ECI sought to include more and more electors. This constitutional imperative to include, the SIR ignores, in its haste to remove voters. The Court turns a blind eye to the disproportionate removal of voters who are women and minorities from the rolls without any fair opportunity to contest the removal.

The ECI's work over the decades has been geared towards facilitating the inclusion of as many voters as possible in a society in which the literacy levels were historically low. In this context, the structural orientation of the ECI towards inclusion of as many voters as possible was manifested in the Representation of the People Act, 1951, the Registration of Electors Rules, 1960 as well as the manuals of the ECI as well as judgments of the Supreme Court. It is this entire body of law meant to ensure that electoral rolls are premised on inclusion, developed over decades, which the ECI ignored. The illegalities were encoded in the decision to do the SIR as well as the timing of the SIR. Illegality was also structurally inbuilt into the short time period in which it was conducted. Illegality pervaded the lack of procedural safeguards which were meant to ensure that no voter who was on the rolls was unfairly deleted from the rolls. It is unfortunate that the Supreme Court failed to evaluate the illegal conduct of the ECI against the parameter of inclusion which the Constitution mandated in its founding promise of 'We the people'.

Why the SIR now: Key question ignored

The most basic question as to why the SIR was deemed necessary today, was not answered with any satisfaction by the ECI. The Court accepted without any evidence or data, the ECI's bald and bare assertion that the SIR was required because, 'a demographic change due to rapid urbanisation and migration in the last 20 years since the intensive revision in 2003 which has led to repeated, multiple and defective entries on the electoral roll. Second, the mandate of the Commission under Article 326 to ensure that only Indian citizens are on the electoral roll.'

Surely, it is the responsibility of the Court to probe the assertions a bit further? What is the data which indicates the scale of multiple and defective entries on the electoral rolls? How many non-Indian citizens are on the electoral rolls? These questions ought to have been asked by the Court as the ECI in effect delegitimized all its previous work by starting the process of enrolment of voters anew. Was the problem serious enough to create a new electoral roll, ignoring the legal framework on elections developed by the ECI as well as the interpretations of the Supreme Court?

The ECI found its scrap of legality for doing the SIR in Section 21 (3) of the Representation of People Act, 1950 which states that, 'Notwithstanding anything contained in sub-section (2), the Election Commission may at any time, for reasons to be recorded, direct a special revision of the electoral roll for any constituency or part of a constituency in such manner as it may think fit.' The strained interpretation arrived at is to argue that SIR is justified under this provision as the word used is 'any constituency', which can be taken to mean 'every' constituency.

So, in effect, what is actually a limited power given to the ECI is interpreted by the apex Court as an unlimited power to do SIR throughout the country.

This technique of statutory interpretation by the Supreme Court is devoid of a constitutional ethos. One would expect the highest constitutional court of the largest democracy in the world, to interpret a statute of such far reaching effects such as the Representation of the People Act, not merely in terms of its wording, but rather interpret the wording animated with the spirit of the Constitution.

Upturning the constitutional ethos

The ethos of the Constitution is manifested in the Supreme Court decision in '*Lal Babu Hussain v. Electoral Officer*' (1995) which had held that the inclusion of a person's name in the electoral roll carries with it a presumption of eligibility to vote and presumption of citizenship. In this case the court had

directed that where the citizenship of a person is suspected, a fresh notice had to be issued "disclosing the material on the basis whereof he has reason to suspect that the person concerned is not a citizen of India." In ADR v. ECI (2026), the Court ignored this crucial protection given to people already enrolled in voter rolls, on the flimsy basis that Lal Babu Hussain was not delivered in the context of a systemic or intensive verification exercise by the ECI. The Court failed to acknowledge that SIR completely reverses the presumption that a person on the voter roll, and who has voted in previous elections, is a citizen.

The diabolical response: Backdoor entry of NRC and depriving welfare schemes

The troubling nature of this judgment lies in the fact that it opens the door for the NRC. The Court holds that where the Commission "is not satisfied that a person meets the statutory conditions for inclusion in the electoral roll," it "would be incumbent upon it to refer such an individual to the competent authority within the Central Government for adjudication" of citizenship under the Citizenship Act, 1955. The Court mandates the setting up of an institutional infrastructure within four weeks without mandating any constitutional safeguards. The similarities to the NRC process, with all its documented catastrophes, are too stark to ignore. The Court has created the architecture of an NRC by judicial fiat, through the backdoor of an electoral revision exercise.

The implications of this judgment are far reaching and go beyond the right to vote. Even before the Court delivered this judgement, the Bihar Chief Minister had already announced that people deleted in the SIR "will not be entitled to any government benefits, including ration and other welfare schemes" and that their bank passbooks will be cancelled. Similar announcements have also been made by West Bengal Ministers. By upholding the constitutionality of the SIR, the Court has legitimised not only disenfranchisement but the stripping away of other socio-economic rights from those who are deleted from the voter rolls. It is not just the right to vote that the SIR threatens to snatch away – it is all other rights guaranteed to us as citizens. This judgment lays the basis for the ECI to go ahead with this exercise of mass disenfranchisement nationwide and a stripping of socio-economic rights from all those whose names are deleted from the rolls.

One had hoped that the Court's institutional memory would have kicked in and the Court would have recalled how its judgment in 'Anoop Baranwal v Union of India' (2023) which had laid down an important safeguard to preserve the independence of the ECI was casually overturned by the Modi government. In Anoop Baranwal the Court had laid down that the appointment of the Chief Election Commissioner and the Election Commissioners, shall be on the advice of a Committee consisting of the Prime Minister, the Leader of the Opposition of the Lok Sabha and the Chief Justice of India. Just before the parliamentary elections of 2024, the Modi government passed a law nullifying the judgement of the Supreme Court and removing the Chief Justice from the Selection Committee and replacing him with a Union Cabinet Minister. The law now prescribes that the Selection Committee will consist of the Prime Minister, a Union Cabinet Minister, and Leader of Opposition/leader of the largest opposition party in Lok Sabha.

The implications of the overturning of Anoop Baranwal has been far reaching. It is the ECI, which is controlled by the ruling party, which has initiated the SIR, ignoring the legal and constitutional framework, essentially to serve the interests of the ruling party. The Supreme Court seems unable to take on board the fact that the SIR process is undertaken by an entity which is no longer independent, but rather by design, totally under the control of the government. If the Supreme Court had taken forward its institutional commitment to preserving the independence of the ECI, and hence the right to vote in India it would not have so blithely concluded that the SIR 'exercise is firmly anchored in both constitutional principle and statutory design.'

In conclusion: Instead of the electorate choosing the government, the government is choosing the electorate! The PUCL is of the opinion that the judgement in ADR v ECI is devoid of a constitutional imagination, lacks fidelity to the existing law on elections and empowers the ECI to lay waste to the principle of political equality.

Just as the Supreme Court betrayed the promise of the Constitution in ADM Jabalpur (1976) by stripping individuals of judicial recourse when detained during the emergency, the Supreme Court in ADR v ECI (2026) lays waste to one of the key goals of the Constitution so eloquently described by Babasaheb Ambedkar, 'In politics we will be recognizing the principle of one man, one vote and one vote, one value.'

While ADM Jabalpur was limited to the context of the emergency, the decision in ADR v ECI sets the seal of the Supreme Court on the betrayal of the promise of political equality, for all time.

This complete betrayal of the promise of political equality in effect sets in place the template for a new India – an India in which the Union government acting through the ECI will select its own electorate. This presages nothing less than the death of democracy as we know it, in this country.

June 4, 2026

PUCL CONDEMNS THE JUDGMENT OF THE MADHYA PRADESH HIGH COURT HOLDING THAT THE KAMAL MAULA MOSQUE WAS BUILT ON A SARASVATI TEMPLE AND HENCE POSSESSION VESTS EXCLUSIVELY WITH THE HINDUTVA PETITIONERS

PUCL NATIONAL

The PUCL faults the Madhya Pradesh High Court for being impervious to the spirit of fraternity and secularism which is the soul of the Constitution.

PUCL demands that the Religious Places of Worship Act, 1991 be strictly followed and interpreted as a legislation enacted to uphold secularism

The May, 2026 judgment of the Division Bench of Madhya Pradesh High Court holding that Kamal Maula Mosque was actually built by demolishing a Saraswati temple and therefore only Hindus had a right to worship there suffers from serious constitutional infirmities. The Madhya Pradesh High Court has unleashed the communal genie sought to be bottled up by the Places of Worship Act, with incalculable implications for communal harmony throughout the country. The judgment gives the green signal to right wing organisations around the country who can now similarly activate the process of law and seek to convert places of worship belonging to Muslims to temples. It is this thoughtless unleashing of a future of strife based on a willful misreading of the Babri Masjid judgment for which this judgment needs to be critiqued. Madhya Pradesh itself will see the next act in this unconstitutional drama when a plea to treat Bijamandal Mosque as Vijay Mandir comes up before the Gwalior Bench.

Historical background

The basis of the petition filed by the Hindu Front for Justice (whose office bearers include those who played an active role in the Ram Janmabhumi agitation as well as active members of the BJP and allied front organisations of the RSS) on the basis that that in 1004 there was a Saraswati temple constructed by Raja Bhoj which was demolished by Muslims. Between 1304 and 1331 CE the Kamal Maula Mosque was constructed. Public interest litigations were filed in the High Court with the petitioners claiming exclusive right to worship (not title to the property) at the Kamal Maula Mosque which they characterized as the Bhojshala. This structure was a protected monument under the Ancient Monuments and Archeological Sites and Remains Act, 1958.The archival information noted by the Court indicates that the structure was dedicated as a mosque at least since 1935.

In 2003 there was a direction by ASI under which Muslims could perform namaz on Fridays while Hindus could perform puja on Tuesdays. This was challenged by both communities. In March, 2024 the High Court had ordered the ASI to conduct "complete scientific investigation, survey and excavation" of the disputed site. The Supreme Court upheld this order but barred release of the survey report and any

excavation that could alter the religious character of the site.

Stay on pending suits

In December, 2024 the Supreme Court granted an important pan India stay in all pending suits related to ascertaining the religious character of places of worship with a view to changing the same. The stay sought to put the lid on the explosion of litigations around the country seeking to alter the status of Muslim places of worship to Hindu places of worship. The stay was in the context of a challenge to the constitutionality of the Places of Worship (Special Provisions) Act, 1991.

The Places of Worship Act

The Places of Worship Act itself was passed during the Babri Masjid agitation and was the first attempt at putting a lid on these kinds of unconstitutional demands. This Act provided that religious character of every place of worship as it existed on 15th August, 1947 shall continue to be the same and that no suit, appeal or legal proceeding shall seek to convert that character. All pending cases seeking such conversion stood abated.

The Places of Worship Act was a legislation meant to safeguard the secular character of the Indian republic. These constitutional implications of this law were outlined in the Babri Masjid judgment. The judgment while it did not do justice to the Muslims in the case of the Babri Masjid held out a promise that a similar injustice would not occur in the context of any other monument in India.

The promise came from the Court's understanding of the constitutional significance of the Places of Worship Act. The Supreme Court held that, the Places of Worship Act, affirms the solemn duty to preserve the 'character of places of public worship'…In preserving the character of places of public worship, Parliament has mandated in no uncertain terms that history and its wrongs shall not be used as instruments to oppress the present and the future.'

Non-derogability and non-retrogression

The Court went on to hold that, 'The Places of Worship Act imposes a non-derogable obligation towards enforcing our commitment to secularism under the Indian Constitution. The law is hence a legislative instrument designed to protect the secular features of the Indian polity, which is one of the basic features of the Constitution. Non-retrogression is a foundational feature of the fundamental constitutional principles of which secularism is a core component. The Places of Worship Act is thus a legislative intervention which preserves non-retrogression as an essential feature of our secular values.'

The understanding of the Court was that the obligation not to covert the status of a religious place was non derogable. This meant that this obligation was so central to the meaning of the Indian Constitution that it could not be suspended, limited, or violated under any circumstances. This obligation was also based on the principle of non-retrogression, which in simple terms means that a right once recognised cannot be taken away.

Laudable as this aim was, there were two exceptions. Firstly, the Babri Masjid itself and Secondly, 'ancient and historical monuments' covered under the Ancient Monuments and Archeological Sites and Remains Act, 1958.

The principle which was laid down by the Supreme Court was that Babri Masjid was an exception which was permitted so as to preserve the rule. The philosophy of the court in Shakespearean terms was that 'To do a great right do a little wrong'. Thus, even as the Court legitimised a range of illegalities and authorised the conversion of a mosque into a temple, the legislation in effect said thus far and no more. The PUCL is of the opinion that while the Babri Masjid judgment suffers from serious legal and

constitutional infirmities, its most important forward looking ratio was the principle of non-retrogression which sought to put the lid on future controversies.

The second exception with regard to 'ancient an historical monuments' has become a matter of controversy today. This is because the ASI manages nearly 3700 protected monuments under this Act. Majority of the important mosques across the country are covered in this including the Bhojshala, thereby potentially destroying the rule that the religious character of places of worship cannot be altered.

However, this is a misreading of the very purpose of the legislation. The Ancient Monuments and Archaeological Sites and Remains Act, 1958 was enacted with the purpose of 'preservation of ancient and historical monuments and archaeological sites and remains of national importance, for the regulation of archaeological excavations and for the protection of sculptures, carvings and other like objects'. The purpose of the legislation has to read in harmony with the Places of Worship Act. The reason the Places of Worship Act carves out an exception to 'ancient and historical monuments' is so that the work of conservation and preservation which could include digging at the site and restoration work etc. is not impeded. The purpose of recognizing an exception is not to facilitate a change in religious character of a place of worship thereby subverting the intention and purpose of the Places of Worship Act.

Opening the lid

Despite this clear understanding, one of the authors of the Ayodhya Judgment, Justice D.Y. Chandrachud opening the lid again. He entertained the dispute concerning the religious character of the Gyanvyapi mosque by making an oral observation that an archeological 'survey did not fall foul of the Act' as it did not amount to altering the religious character of the place. This of course begged the question as to what the purpose of the survey was, if not to alter the religious character of the place of worship! This opening of the lid lead to similar cases started being filed across the country leading to major communal tensions.

In the meanwhile the constitutional validity of the Places of Worship Act was challenged in the Supreme Court. In hearing the matter in December 2024 a three judge Bench headed by then Chief Justice Khanna gave an interim stay that "though fresh suits may be filed, no suits would be registered and no proceedings shall be undertaken therein." Further in respect of pending suits, 'no court will pass any effective interim orders or final orders, including orders directing surveys, etc.' This was pending the decision on constitutionality of the 1991 Act, which matter is yet to be decided.

However, the stay granted by the Khanna bench of the Supreme Court was bypassed by Chief Justice Suryakant in the case of Bhojshala. In January, 2026 a Bench headed by Chief Justice Suryakant ordered the survey report to be given to all parties and directed the writ petitions to be finally decided in the Bhojshala matter in a petition filed by the Hindu Front for Justice. The absurd logic of Justice Suryakant's order which can be inferred is that Justice Khanna's stay order applies only to suits and not writ petitions or public interest litigations. Thus the same or similar prayers sought for in a 'suit' have to be stayed but if they are sought through a writ petition they can be continued.

This is nothing but semantic jugglery bereft of a constitutional logic. While the writ jurisdiction cannot be ousted by a statute, it cannot be exercised in such a manner as to render null a statutory provision which encodes a constitutional principle. The Court should not have entertained a writ whose sole purpose was to render null and void the Places of Worship Act's prohibition on civil proceedings in respect of the conversion of the religious character of places of worship. The Court should have refused to exercise jurisdiction as by doing so it released the genie of endless communal conflict from the bottle.

Ordinarily writ petitions (where no oral evidence is led and there is no chance of cross examining witnesses) are not maintainable when there are disputed questions of facts. For that a full fledged trial has to be conducted as it had happened in the case of Babri Masjid. This would give an opportunity for

contesting parties to lead evidence concerning historical facts, cross examine experts, bring their own experts, etc. What the order of the Supreme Court followed by the judgment of the High Court does is, bypass the stay of the Supreme Court as well as bypass the procedural and legal requirement of a full-fledged trial. It permits the High Courts to declare any place of worship as originally belonging to Hindus on the basis of oral arguments and disputed documents. This opens up the door for High Courts across the country to declare ancient or historical monuments as being exclusively Hindu without having to undergo the rigours of a trial.

The Report of the ASI is not a credible report based on rigorous scientific evidence.

The judgment of the High Court is shot through with procedural, legal and constitutional infirmities. The High Court decided the matter purely on the basis of report of Archeological Survey of India, which in itself is answerable to Department of Cultural Affairs, Union of India. Its reports are neither peer reviewed nor publicly available. In the present case, though carbon dating was directed no such carbon dating was done.

The Report itself was nothing other than a dossier, produced by a non-independent agency. The dossier contained selective documentation which was handed over judges in sealed covers and became the basis for a verdict which deprives the Muslim community of the right to consider a structure which had been a mosque for seven hundred years as a mosque. This immediately translates into exclusive possession to the Hindutva groups and prohibition of access of Muslims to the Kamal Maula Mosque. All on a finding that there was a temple underlying the mosque which rests on debatable scientific evidence marshalled by the Archaeological Survey of India which is no more than a department of the Ministry of Culture.

The courts should be bound by the constitutional principle of non-retrogression

But the more important question which arises is that even assuming that a mosque was built over a Saraswati temple 700 years, should the Courts be depriving contemporary communities of the right to worship based on ancient history? Should not the courts be bound by the constitutional principle of non-retrogression ?

If Muslims have enjoyed the right to consider the Kamal Maula Mosque as a mosque for over seven hundred years, that right cannot be snatched away today. Stripping Muslims of the right to worship at the Kamal Maula Mosque (which they have historically enjoyed) is an act of retrogression which is constitutionally prohibited.

PUCL critiques the judgment of Madhya Pradesh High Court as being wrong on facts and law. The PUCL faults the Madhya Pradesh High Court for being impervious to the spirit of fraternity and secularism which pervades the Constitution. The prayer of the petitioners was ‘regarding claim of exclusive right of worship on the disputed portion of khasra land of Bhojshala and Kamal Maula Mosque and also a declaration that the members of Muslim community have no right to use any portion of the aforesaid property for any religious purposes.’ A constitutional court should have been shocked by the prayer and refused to entertain a mischievous claim to prohibit the Muslim community from using the property for ‘any religious purposes’ as deeply antithetical to the idea of ‘we the people’ who had given ourselves a Constitution with fraternity as an ideal and secularism as a goal.

PUCL hopes that the Supreme Court pays heed to the spirit of the Constitution and this judgment is overruled. PUCL demands that the Religious Places of Worship Act, 1991 be strictly followed and interpreted as a legislation enacted to uphold secularism.

The courts must defend the constitutionality of the Religious Places of Worship Act, 1991 as a vital element of the basic structure of the Constitution. It’s critical that the constitutional courts put a stop to

the endless instrumentalization of real or perceived historical grievances and thereby actively protect the constitutional values of fraternity and secularism. Nothing less is expected of the constitutional courts if they are to fulfil their responsibility of being custodians of the Constitution.

June 8, 2026

FALSIFYING THE TRUTH: PUCL CONDEMNS THE SYSTEMATIC MANIPULATION OF CENSUS DATA AND THE SUPPRESSION OF GROUND REALITIES IN THE ONGOING CENSUS EXERCISE

PUCL NATIONAL & PUCL RAJASTHAN

The People's Union for Civil Liberties (PUCL), views with the gravest alarm the revelations published in The Hindu on 3 June 2026 regarding the conduct of the ongoing Census House listing Operations (HLO) across Rajasthan and other states. The reports disclose a disturbing and unconscionable pattern: that ground-level enumerators are being systematically pressured by senior officials to alter, revise, and falsify data that accurately reflects the lived conditions of India's most marginalised citizens, and to replace truthful enumeration with figures that serve the political interests of the ruling dispensation. PUCL condemns this in the strongest possible terms.

The Census as a Fundamental Rights Instrument

The Census is not merely a bureaucratic exercise in counting heads and tabulating assets. It is the foundational instrument through which the Indian State fulfils its constitutional obligations to its citizens. The data collected determines the allocation of welfare entitlements, targeted poverty programmes, infrastructure investments, and crucially, delimitation of parliamentary constituencies. The Census is therefore inseparable from the right to equality (Article 14), the right to life and dignity (Article 21), and the right of citizens to be counted truthfully as bearers of rights. To falsify Census data is not an administrative irregularity: it is a violation of fundamental rights.

What the Ground Reality Discloses

The testimony of enumerators, government school teachers, anganwadi workers, and other frontline functionaries paints a picture of deprivation that is profoundly at odds with the government's self-congratulatory claims. Enumerators across Rajasthan and Uttar Pradesh have reported:

- Households without toilets, where residents defecate in the open, contradicting the government's declaration that India is Open Defecation Free (ODF).
- Households without piped or treated tap water, contradicting the Jal Jeevan Mission's claim of near-universal household water connectivity.
- Households dependent on firewood, dung cakes, and kerosene for cooking, contradicting data on LPG connections under the Ujjwala scheme.
- Households with tin roofs being instructed to be reclassified as having concrete roofs, a naked falsification of housing conditions.
- Households without electricity or internet, contradicting claims of digital inclusion.
- Residents so impoverished and excluded from state welfare that they pleaded with enumerators to help them access basic entitlements, housing, LPG, water, pensions, that they had never received despite being counted as beneficiaries in government data.

These are not discrepancies in methodology. They are the face of structural deprivation, of a welfare architecture that has been constructed on paper while millions remain without its basic provisions in reality.

The Direction to Falsify: A Grave Institutional Offence

PUCL Rajasthan draws particular attention to the letter issued on 2 June 2026 by the Director of Census

Operations, Rajasthan, to all district-level functionaries, directing them to 'verify' and correct 'discrepancies'. Read alongside the testimony of enumerators who have been explicitly told, in the words of one, 'not to select options that may show the government in a poor light', this letter constitutes institutional cover for data manipulation.

The instruction to enumerators to check whether households practising open defecation have access to a neighbour's toilet or a public urinal, so as to revise the classification away from 'open defecation', is particularly egregious. It is not enumeration; it is the manufacture of consent to a falsehood.

This is not the first time that official welfare data has been found to diverge sharply from ground realities. The SIR exercise, deletions from voter rolls, manipulated BPL lists, these form part of a consistent and dangerous pattern of state-manufactured invisibility of the poor. The Census, which carries unique constitutional weight and long-term demographic and electoral consequences, cannot be permitted to become another instrument in this edifice of official falsification.

The Vulnerability of Enumerators

PUCL is equally alarmed at the position in which frontline enumerators, government school teachers, anganwadi workers, and other contractual and regular state employees, have been placed. These individuals are being required to choose between their professional integrity and their institutional subordination. Many have raised their voices on social media at considerable personal risk. They deserve full protection, not coercion.

We note that the Census exercise is being conducted entirely on digital platforms using enumerators' personal phones, in conditions of inadequate mobile connectivity in rural and tribal areas, with grossly insufficient reimbursement (a mobile recharge of Rs. 66 has been reported from Uttarakhand). These conditions, compounded by the simultaneous performance of regular duties, render the exercise not merely flawed but structurally compromised.

A Warning to the State

PUCL reminds the Central and State Governments that a Census whose data is manufactured to validate governmental claims rather than to enumerate lived realities is not merely a statistical fraud, it is a political and constitutional one. The decennial Census shapes delimitation, welfare targeting, fiscal devolution, and the entire architecture of representative democracy. Falsified Census data will not only deprive the poor of entitlements they urgently need; it will corrupt the very basis of democratic representation for decades.

The invisible poor, those without roofs, toilets, electricity, or clean water, have a fundamental right to be seen, counted, and heard by the Indian State. Their erasure from official data is not a technicality. It is a rights violation.

In light of the above, PUCL demands:

- An immediate halt to all instructions, formal or informal, to enumerators to revise or 'correct' data that truthfully reflects ground conditions. The CMMS portal must not be used as an instrument of real-time surveillance to pressurise enumerators into data revision.
- A full, independent, and transparent inquiry into the letter issued by the Director of Census Operations, Rajasthan, on 2 June 2026, and all allied communications issued by Charge Officers, Sub-Divisional Census Officers, and District Coordinators in this connection.
- Guaranteed protection for all enumerators who have raised concerns about pressure to falsify data, whether on social media or through other means, against any form of institutional retaliation, transfer, or disciplinary action.

- The constitution of an independent oversight mechanism, including civil society, retired senior bureaucrats, and statisticians with no government affiliation, to audit and verify Census data at the block level before final records are compiled.
- A public statement from the Registrar General and Census Commissioner of India reaffirming the constitutional obligation of the Census to capture truthful ground realities, and explicitly disavowing any instruction to enumerators to align data with government welfare scheme claims.
- Adequate material support to enumerators, including data reimbursement, dedicated time, and relief from concurrent official duties during the HLO exercise.

Kavita Srivastava, National President, PUCL
V. Suresh, National General Secretary, PUCL

Anant Bhatnagar, President, PUCL Rajasthan
Rajesh Choudhury & Pragnya Joshi, General Secretary(s), PUCL Rajasthan

June 15, 2026

DEMOCRATIZATION OF LAND & RESOURCE GOVERNANCE TO PROTECT COMMUNITIES ENGAGED IN SUBSISTENCE CUSTOMARY LIVELIHOODS FROM RAMPANT LAND GRAB

PUCL TAMIL NADU & PUDUCHERRY

The last frontiers of natural wealth of Tamil Nadu – which include its hills, forests and scrub lands, coastal waters and lands, sand dunes, salt pans and brackish water ecologies, agricultural fields, tanks, ponds, canals and other wetlands, grazing and other commons – are under severe threat from large-scale land monetization, extraction and environmental destruction. This involves the forcible removal of communities, whose customary livelihoods in forestry, fishing, farming, pastoral and craft and cottage industry have continuously sustained countless generations from time immemorial, while at the same time, preparing, nurturing, protecting, conserving and reproducing these landscapes and their ecologies for their subsistence needs and the greater common good. Concrete action is urgently required to halt and reverse this widespread and accelerating land and resource grab, denying and crushing their democratic and customary rights and resulting in coercive displacement and extensive violence and destitution, besides environmental collapse and ecocide.

These landscapes include 26.35 lakh hectares of forests, 9.03 lakh hectares of wetlands, 5-6 lakh hectares of village commons (of which 1.08 - 1.11 lakh hectares are permanent pastures and grass lands), and 4.50 lakh hectares of coastal lands, besides 47,501 sq. km of territorial and contiguous waters along a 1,068.69 km coastline. Excluding coastal waters, these account for about 35% of the total geographical area of the State. These landscapes have been traditionally managed by communities whose customary livelihoods are deeply intertwined with the health of these ecologies. Therefore, these communities are best positioned to protect, conserve and sustainably manage their customary landscapes and ecosystems by deploying their accumulated expertise and wisdom. They are 29% of Tamil Nadu's workers who are engaged in agriculture, forestry, fishing and pastoral activity as a primary occupation, and a further 18% in construction who may be seasonally engaged in agriculture and animal husbandry. These vast numbers inhabit some 79,395 hamlets in 12,525 village panchayats across Tamil Nadu: a potential force for democratization on a scale hitherto unimagined.

Forests & Forest Rights Act, 2006

The Forest Rights Act 2006 (FRA), a flagship governance law, recognised and vested forest rights – both individual and community rights – on Scheduled Tribes and Other Traditional Forest Dwellers. The habitation-level village Gram Sabha determines, demarcates, verifies and approves the vested forest rights. FRA introduced village self-rule and self-governance over the forest lands empowering the Gram

Sabhas to protect, conserve, and manage forests, wildlife and biodiversity, making it the premier forest conservation and governance law in the country. Tamil Nadu is one of the most laggard states in FRA implementation due to the resistance of the forest bureaucracy compounded by the apathy of the Tribal Welfare department – the nodal agency for the law – and the Revenue department.

With the Panchayats defunct since January 2025 except in some districts, the Sub-Divisional and District Level Committees under FRA who are to process, recognise and title the Gram Sabha approved forest rights claims, are also defunct as 3 of the 6 members forming each committee are to be nominated from among those elected to the District Panchayats. This has prevented the processing of Gram Sabha approved claims from 2025 and renders the titles issued post-term of the Panchayats, legally questionable. Hold panchayat elections and reconstitute the Sub-Divisional and District Level Committees under FRA immediately.

Even as rights recognition continues to be denied, the National Tiger Conservation Authority (NTCA) asked the Tamil Nadu Forest Department on 19 June 2024 to speed up the 'relocation' of some 4,701 families in 63 villages in 5 Tiger Reserves. Some 614 families in 6 villages have been illegally 'relocated' from Mudumalai Tiger Reserve so far. Leave alone rehabilitation, even the monetary compensation due to them was looted by a gang that includes forest officials, for which FIRs have been filed under the Prevention of Atrocities Act 1989. Moreover, all the 5 Tiger Reserves in question, were themselves notified violating the relevant provisions of the Wildlife Protection Act, 1972. Ensure that all the forest rights are recognised in these villages immediately, and any relocation is strictly voluntary, fulfilling all relevant provisions under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR 2013).

Evictions of so-called 'encroachers' are pursued despite FRA prohibiting any eviction of Scheduled Tribe & Other Traditional Forest Dwellers dependent on the forests, pending finalisation of FRA claims by the District Level Committee, in order to determine whether the claimant is an 'encroacher' or not. A number of Madras High Court orders directing the eviction of 'encroachers' ignores this, notwithstanding the Supreme Court order of February 2019 keeping on hold the eviction of rejected FRA claimants. The Supreme Court itself is guilty of ignoring the extant law, as demonstrated in its 29 May 2026 order on the Manjolai case, accepting the legally untenable figures on 'encroachers' provided by the Forest Department to the Centrally Empowered Committee and converting the latter's recommendations to directions issued by the Court. This will lead to the eviction of at least 4,595 people and the removal of government public facilities from the concerned areas within 6 months. State Level Monitoring Committee under FRA should direct the Forest Department that 'no forest dweller shall be evicted or removed from forest land under his occupation until the recognition and verification procedure as per FRA is complete'.

The Global Environment Facility's (GEF) 2025-30 project grant of USD 4.88 million for 'Strengthening Institutional Capacities for Securing Biodiversity Conservation Commitments', has been operationalised over 173,260 hectares in Mudumalai and Sathyamangalam Tiger Reserves and Wildlife Sanctuaries (besides in three Protected Areas of Meghalaya), most of which – if not all – falls within the purview of the FRA. The project is designed to empower the Biodiversity Management Committees constituted by the Tamil Nadu State Biodiversity Board with the Forest Department in overall control. But as the habitation-level Gram Sabha is the statutory authority to protect, conserve and manage the biodiversity in these areas under Sec.5 of FRA, the GEF project is in direct conflict with the law. Ensure that the GEF project is reviewed and made to comply with the FRA 2006, as legally required.

Redefining the 'Village' and Empowering its 'Gram Sabha'

The Government of Tamil Nadu should put in place a land and natural resource governance framework similar to the FRA – through law or suitable amendments to/repeal of extant laws – enabling the habitation-level Gram Sabhas of farming, pastoral, fishing and other coastal communities besides other

traditional communities engaged in customary livelihoods embedded in their landscapes, to take control over their commons to protect, conserve, manage and regulate the use of the land and resources therein, after determining, demarcating, verifying, approving, recognising and titling the landscapes over which the individuals and communities concerned may lawfully exercise their customary rights.
For this:

- A 'village' should be redefined to legally mean a habitation-level unit and its general assembly, to be its 'Gram Sabha', abandoning and replacing the unwieldy and unworkable, nominal Gram Sabha at the Gram Panchayat level, as defined in the Tamil Nadu Panchayat Raj Act, 1994.
- This habitation-level Gram Sabha should be the statutory authority to manage the village commons as per the decisions of the customary rights holders in these commons. No land acquisition or diversion and land use change of these demarcated village commons shall be undertaken until and unless all customary rights to these commons are recognised and settled, the Gram Sabha approves of the proposed project/activity and provides its free, prior and informed consent for the transfer or transformation of use of such lands for the said purpose, subject to such conditions as the Gram Sabha may deem fit to impose. Relevant TN State laws should be suitably enacted, amended or repealed to give effect to this within the next six months.
- The TN Land Consolidation (for Special Projects) Act 2023, which claims to protect water resources by granting Government land to replace private land lost to the naturally changing course of a river or stream, is in fact designed to facilitate the wholesale appropriation and conversion of water bodies to infrastructure, industry and commercial uses by designating any project – public or private – of extent 100 hectares (247 acres) or more, a 'Special Project'. Such a 'Special Project' cannot be rejected but must instead be granted the land it wants, regardless of whether these are water bodies, other commons or wetlands – excluding only forests – with the imposition of some conditions on the conservation of water storage capacity and drainage flows. The haste with which this statute was passed in the TN Assembly – in September 2023 – and its subsequent application to the Paranthur international airport project demonstrates that it was clearly tailored to forestall all challenges to the project on ecological, hydrological or environmental grounds! Therefore, the anti-democratic TN Land Consolidation (for Special Projects) Act 2023 must be repealed immediately and the blanket protections given to all 'Special Projects' under the Act – including Paranthur – must be withdrawn.

Several lakh hectares of land and seascapes under the unbroken customary use of lakhs of people, from time immemorial, are today subject to violent appropriation by state and private capital, producing windfall profits for the chosen few and destitution for the many, and effectively depriving them of their Right to Life and jeopardizing our combined future. All projects – public and private – must be put on hold until the above-named actions are completed.

R. Murali, President
D. Sekar Annadurai, General Secretary
PUCL Tamil Nadu & Puducherry

June 14, 2026

FACT-FINDING REPORT ON THE COMMUNAL RIOTS IN ROH (NAWADA) ON 28–29 MARCH 2026

PUCL BIHAR

While the full report is available in English and Hindi on the Website, here is a summary.

On Saturday, 28 March 2026, at 8:00 p.m., an incident of communal disturbance and rioting occurred during the Ram Navami procession in Roh Bazaar in Nawada district, Bihar. As a continuation of this incident, the following day 20 shops at the Roh Bus Stand, all belonging to Muslims, were set on fire. The Nawada District Unit of PUCL comprising seven members, conducted an independent enquiry which

culminated in a fact-finding report of the incidents based on detailed interactions with the shopkeepers who suffered losses, riot victims, other residents of Roh Bazaar, public representatives, and the Station House Officer of Roh.

The incidents of 28th and 29th March

Ward Member Bhushan Paswan of Ward No. 03 of Roh Block, under which Roh Bazaar falls, informed the PUCL fact-finding team that on 28 March 2026, the Ram Navami procession started from Viru Kuan at 7pm and entered the main market from the northern side after passing along the western end of Roh. At about 100 yards from the Jama Masjid, the generator powering the lights and DJs of the procession stopped functioning, as had happened the previous year. The generator remained non-functional for about half an hour, with the participants sloganeering. Once the procession reached the Jama Masjid, a stray stone flew out and struck an administrative officer who was with them. Following this, the police as well as the administrative officers managing the procession urged them to move forward. Upon reaching the Lakshmi Temple in Roh Bazaar, at around 8pm, stone-pelting started in three directions, resulting in complete chaos. Using some, but limited, force to contain the chaos, the police and administrative officers managed to move the procession forward.

The following day, some persons from both communities along with social workers initiated efforts to establish peace through mutual dialogue. However, disregarding the peace efforts, a group of rioters reached the Roh Bus Stand at around 2:00 p.m. and poured petrol on the shops of Muslim roadside vendors and set them on fire. These vendors sold vegetables, fruits, fish, etc. A ready-made garment shop belonging to a member of the Muslim community also suffered extensive damage. The public administration acted quickly by commissioning fire brigades that brought the fire under control.

The following persons suffered economic losses due to the Roh riots:
1. Md. Chhotu, son of Md. Kaleem – Egg and poultry shop burnt down.
2. Md. Sonu Rain, son of Md. Jahangir – Egg and poultry shop burnt down.
3. Md. Ehtesham, son of Md. Moinuddin – The glass of a garment shop broken and the shop looted.
4. Md. Navijan, son of Qudrat Mian – Fruit shop looted and then burnt.
5. Rani Praveen, wife of Md. Chand – Ready-made garment shop burnt.
6. Md. Irfan, son of Iqbal – Fruit shop looted and burnt.
7. Md. Imran, son of Iqbal – Fruit shop looted and burnt.
8. Md. Akhtar Alam, son of Chamari Mian – Fruit vendor looted.
9. Md. Islam, son of Chamari Mian – Vegetable shop looted and burnt.
10. Md. Mustafa, son of Abdul Ghafoor – Fruit vendor looted.
11. Md. Azad, son of Hashim – Fish and poultry shop burnt.
12. Md. Sameed Alam, son of Serajuddin – Roadside shop looted and burnt.
13. Md. Sallauddin, son of Serajuddin – Roadside shop looted and burnt.
14. Md. Aamish, son of Rafiq – Vegetable shop looted and burnt.
15. Md. Shahzad, son of Shafiq – Vegetable shop looted and burnt.
16. Md. Aslam, son of Maqbool – Fruit shop looted and burnt.
17. Md. Faheem, son of Md. Zaheer – Fruit shop destroyed.
18. Md. Alishan, son of Parvez Alam – Fruit shop looted.
19. Md. Shamsher Alam, son of Shahabuddin – Ready-made garment shop and sandalwood kiosk damaged. Besides, Dr Alam's vehicle was also damaged

Role of the police in the riots

Information gathered by the PUCL fact-finding team from the Muslim residents of Roh Bazaar and eyewitnesses to the riots, as well as statements from the families that were directly affected by the riots raise crucial questions regarding the role of the police and administrative officers in managing and controlling the riots, along with their complicity in the violence that ensued.

Accounts of several persons from the riot-affected families mentioned that police officials forced or sneaked entry into their houses around midnight on the two nights of the riots, harassed them, verbally abused them, physically assaulted some, searched their belongings, broke windows and personal items, and threatened to kill them: “Shoot them so that the trouble ends once and for all.” In addition to their violence against these families, the police were also accused of harassing and implicating innocent persons in false cases. It was usually an entourage of 20-25 police personnel that visited them and took away a member of the family to the police station for questioning, and in extreme cases also arrested them without any investigation. While 9 out of 12 such accounts were from Muslim families in the Roh Bazaar area, two Hindu women and a Hindu Mukhiya Representative, Sanjay Kumar Malakar, also reported their sons being picked up by the police for questioning in the middle of the night and later released. Among those picked up and arrested by the police, there was also an account of police brutality in custody. Md. Arman stated that the police apprehended him from the road and took him to Qadirganj Police Station, where dozens of police personnel brutally beat him in custody. The Station House Officer (SHO) of Roh informed the fact-finding team that around 44 persons had been named as accused, including both Hindus and Muslims. In addition, another 100–125 unidentified persons had also been accused by the police.

The SHO of Roh maintained that the police had managed the Ram Navami procession well from Viru Kuan up to Jama Masjid and Lakshmi Temple but had failed to prevent the arson. However, the affected families, along with other residents of Roh Bazaar believed that it was the police and the administrative officials who were the real culprits of the riots, as they had allowed the procession to flout several rules of the government permission for it. For instance, the procession was scheduled to begin from Viru Kuan between 3:00 and 4:00pm, but it started at 7:00pm. Furthermore, according to government license/permission instructions, DJs during the procession were prohibited. However, as per several eyewitness accounts, not one but four DJs were playing, with police and administrative officers responsible for enforcing the ban on DJs accompanying the procession. And most importantly, the police had ignored the events of the night before the Ram Navami procession, when a group of Bajrang Dal members had taken out a procession in Roh Bazaar and announced over a loudspeaker that all shops would have to remain closed on 28 March. An eyewitness to this event, Md. Sallauddin, stated that the Bajrang Dal members had announced: “If anyone kept a shop open, he himself would be responsible for any loss suffered.” Md. Sallauddin and some other persons present there complained that the names of those who had set the shops on fire were not included in the FIR. Rather, the persons who committed arson were often seen in the company of the police. This was also confirmed by the Mukhiya Representative, who stated that the involvement of the police-administration in the whole incident appeared evident since they failed to identify the actual culprits by examining CCTV camera footage and the video recordings that several police and administrative personal had recorded. He said: “Instead, the criminals were being seen moving around with the police.”

The SHO attributed the communal disturbance to the Panchayat elections due next year and said it was politically motivated to polarise communities and secure votes. And while he assured that innocent persons would not be harassed and cases against them be withdrawn, he did not acknowledge the harassment and false implication in cases that innocent persons were already facing.

Conclusions

Nawada has a history of riots since 1974. However, in recent years, there has been an increase in incidents of communal disturbances and riots. The incident of 28 March 2026 should be viewed against this background.

After investigating the entire sequence of events and considering the history of riots in Nawada district, the team believes that if the administration had been vigilant, if its intelligence system had functioned properly, and if it had strictly enforced the law and rules, the riots and disturbances that occurred on 28 and 29 March 2026 could certainly have been prevented. Such negligence by the police encourages

rioters and boosts their morale, while it is the ordinary people, especially minorities, who suffer economic losses and are subjected to fear and insecurity.

Recommendations of the PUCL Fact-Finding Team

1. A judicial inquiry should be conducted into the communal riots that occurred in Roh on 28–29 March 2026. The scope of the judicial inquiry should also include the questionable role of the administration during the procession. Strict action should be taken against all persons found guilty.
2. Those who suffered economic losses during the riots should be provided with adequate compensation by the administration immediately.
3. CCTV footage from Roh Bazaar and other affected locations, along with officially recorded videos, should be examined. The real culprits should be identified and arrested, and speedy trials should be conducted against them. Simultaneously, the names of innocent persons should be removed from the FIR, and the cases filed against them should be withdrawn.
4. In view of the background of communal disturbances and riots in Nawada, peace committees comprising members of both communities should be formed as a longterm solution, and regular meetings should be held. Joint educational, training, and other programmes should be organised to promote mutual love and harmony between the two communities.
5. To prevent future riots and disturbances, the administration should adopt a policy of "zero tolerance." Strict vigilance should be maintained over communal elements without any discrimination, and special arrangements should be made to thwart attempts to create disturbances during social and religious occasions.

June 15, 2026

DETENTION AND REHABILITATION CANNOT BE IMPOSED ON SEX WORKERS AND VICTIMS OF SEX TRAFFICKING AGAINST THEIR WILL

ANJU RAO G.

In Prajwala vs. Union of India (2026 INSC 609), the apex court has issued nationwide guidelines directing the implementation of a Victim Protection Plan in context of CSE, not by merely interpreting available statutory material but by reading them in the light of Articles 21 and 23 of the Constitution. The directions detail the manner in which preventive, protective and rehabilitative measures must be implemented to safeguard the fundamental rights of the victims of trafficking for CSE.

A Division Bench of Justice JB Pardiwala and Justice R Mahadevan adjudicated upon three issues i.e whether victims of trafficking for CSE are entitled to the right to rehabilitation, whether there are gaps in the legislative and institutional frameworks regarding their rescue, protection, rehabilitation, and repatriation, and whether there is a need to create an Organised Crime Investigation Agency(OCIA) for offences of human trafficking.

The judgement is historic in declaring that while the victim is entitled to the right to rehabilitation owed by the State under Article 23, the victim's own wishes and desires shall determine her consent to rehabilitation under Article 21, including the mode of carrying it out to suit her unique situation. The Court held that the rehabilitative process cannot be imposed upon a victim against her will, thereby upholding her agency in exercising her right to live with dignity.

Conflation between sex trafficking and voluntary adult sex work

The judgement discusses the problem of conflation between coerced and voluntary sex work that exists in the Indian legislative framework. It recognises that over time, due to associations made between prostitution and trafficking in popular and legal discourse, the acts of third parties done in furtherance of

prostitution came to be equated with trafficking itself. Further, the judgement acknowledges that two different understandings of what constitutes trafficking for CSE are operating simultaneously in India.

On the one hand, the Immoral Traffic (Prevention) Act, 1956 criminalises third parties for the prostitution of others, with or without their consent, and presupposes that all prostitution is inherently exploitative. The same statute does not criminalise or prohibit prostitution of any kind. In fact, the judgement begins the analysis of the ITPA by titling the section, 'Necessary prelude to the ITPA - the conflation between sex trafficking and prostitution'. These observations of the Court directly address the struggles of adult voluntary sex workers who are mechanically misidentified as coerced victims and subjected to human rights violations in the raid, rescue and rehabilitation model of the ITPA. The Court observed that owing to moral judgement and social stigma, adult voluntary sex workers are isolated, their concerns are dismissed and they are unable to access protections due to bias and prejudice of those responsible for it.

On the other hand, the term 'trafficking in persons' was left undefined until Section 370 IPC was introduced, now provided for under Section 143 of the Bharatiya Nyaya Sanhita 2023. Under this section, trafficking requires that an act of bringing a person towards prostitution must have been done through a specified non-consensual means, such as force, coercion, inducement, or deception, for it to constitute trafficking, even in case of child victims.

Conduct of police and officials during raids and rescue

The Court noted that raids and rescue operations are regrettably conducted in a degrading and humiliating manner. In its foremost directions, the Court incorporated non-criminalisation, non-stigmatisation and non-discrimination of victims among the fundamental principles of its guidelines. More particularly, at paragraph 362 (c) (ii), the Court directed rules for officials forming part of the rescue team that no person shall be abused, either verbally or physically, that there must be no use of unnecessary physical force or manhandling, and that no misdemeanours or offences shall be committed in the course of rescue, failing which the victim has the right to prosecute them.

Magistrate's duty for threshold inquiry about voluntary sex work

The Court directed that after ascertaining whether the victim is a minor or adult, the magistrate before whom adult victims are produced must hold a threshold enquiry:

> *"362 (d)(xii). At the first hearing, the Magistrate shall hear the victim, among other things, on: (i) whether she considers herself to be engaging in prostitution on her own volition and without coercion, fraud or force, whether direct or indirect, and (ii) whether she wishes to be placed in long-term safe custody by virtue of an order under Section 17(4), ITPA."*

The reason for this determination is rooted in the landmark constitutional judgement of Budhadev Karmaskar V. State of West Bengal, 2022 that was the first to directly address human rights violations suffered by voluntary sex workers and upheld their equal right to live with dignity under Article 21. The Supreme Court had held that since voluntary sex work is not illegal and only the running of a brothel is, such sex workers found in raids should not be victimised or taken into custody under the ITPA; that rehabilitation should not be coercive but voluntary on the part of the sex workers.

In the Prajwala judgement, the Court observed that it is still possible for adult voluntary sex workers to end up being produced as victims of trafficking in CSE before the magistrate nonetheless. This is because removal and rescue operations are conducted in difficult and time-sensitive circumstances. It is with reference to omission of this non-interference principle by law enforcement agencies that the Court introduced a magisterial threshold enquiry in express terms, thereby reconfirming Budhadev Karmaskar and the right to personal liberty under Article 21.

Rehabilitation should be non-coercive

The Court held that the right to live with dignity broadly includes three dimensions: i) the right not to be

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treated as an object, ii) access to the minimum material conditions for a meaningful life, and iii) the right to be recognised. In victims trafficked for CSE, the crime violates their right to live with dignity directly at all three fronts. The Court indicated that rehabilitation addresses the second and third dimensions. It is, simultaneously, an obligation owed to victims under Article 23. At paragraphs 287 and 288, the Court stated that rehabilitation must encompass goods, shelter, medical care, psychological support, compensation and vocational training i.e all that is necessary to enable the adult victim to sustain herself independently, and reduction of stigma, isolation and margination to facilitate her genuine reintegration into the community. At the same time, the Court also held at paragraph 348, ahead of its directions in the matter, that forcible imposition of rehabilitation is also wrong in principle. A victim may have her own understanding of what rehabilitation means and how she wishes to pursue it. The Court held that rehabilitation measures would further the inherent dignity of a victim only when they are designed and implemented with her own choices, wishes, and specific circumstances at their center. By upholding the decisional autonomy of the victim, the Court is invoking the first dimension of her right to live with dignity under Article 21.

Is detention in ITPA Protective Homes part of rehabilitation?

While laying out that the right to rehabilitation includes the right to be protected, the Supreme Court acknowledged that the ITPA subscribes strictly to an institutionalised, detention-based protection model. It includes no freedom of movement of the victim's own volition, separation from those she is close to, end to her privacy under institutional control and impaired ability to earn a livelihood for herself and other dependents. Mandatory and fixed-period long term protective custody slowly begin to mirror penal custodial institutions with prison rules. Read together, the Court's exposition of the protective homes indicates violations of the victim's rights under Article 14, 19 and 21 when she is dealt with under the ITPA.

Rights of sex workers can exist without right to sex work.

Until *Budhadev Karmaskar*, sex workers and their human rights violations were never taken up as subject matter of judicial consideration. They were not deemed worthy of discussion since, in the Court's own words at paragraph 410, they are often categorised as 'immoral' or 'fallen' and seen as less deserving of dignity and legal protection.With the *Prajwala* judgement, the Supreme Court emphasised the constitutional rights of sex workers once again under Article 21. The Court advised the government to re-examine the conflation between sex trafficking and prostitution in the present legislative framework and recommended that there was sufficient scope for recognition, protection and mechanisms to enforce rights of adult voluntary sex workers even within the existing framework. The Court, in its judicial conscience, held at paragraph 455 (c) that the rights of sex workers can exist without there being a right to sex work. It expressed hope that such recognition will, to some extent, reduce the marginalisation, isolation, and stigmatisation that sex workers face, and thereby pave the way for their more meaningful reintegration into society.

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(July 1, 2026)

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